

REMARKS/ARGUMENTS

Claims 1–39 are pending in the captioned application. Claims 1–14 are currently under examination, and claims 15–39 stand withdrawn from consideration. Applicants have amended claims 1, 2, 3 and 11 and have cancelled claims 10, 12 13 and 14. Applicants respectfully submit that the amendments are fairly based on the specification, and do not add new matter. Applicants submit that claims 1–9 and 11 are now in allowable form and solicit their allowance.

Claims 1 and 10–13 have been rejected again under 35 U.S.C. §102(b) by Monforte et al. (US 5,830,655). Claims 1–7 and 10 have been rejected again under 35 U.S.C. §102(b) by Wong et al. (US 6,120,997). In the Examiner's response to Applicants' arguments, the Examiner did not dispute that neither Monforte et al. nor Wong et al. teach or even suggest an expression assay as claimed in the instant invention. Rather, the Examiner seems to state that the claimed "expression assay" was too broadly defined, as "do not describe any steps of 'expression', but rather only describes steps of 'binding'" (see item 7 of the office action). In response, Applicants have amended claim 1, the only independent claim, to clearly define the steps involved for the expression assay. Support for this amendment can be found in Figure 1, as well as paragraphs 42, 43

and 50 of the specification. Applicants submit that in view of the amendments, the 35 U.S.C. §102(b) rejections are now moot.

Claims 1–8, 12 and 14 have been again rejected under 35 U.S.C. §103(a) as being unpatentable over Chee et al. (WO98/56954) in view of Fidanza et al. (Journal of American Chemical Society, Vol. 111, pages 9117-9119) and Housby et al. (TIBTECH, vol. 18, pages 439-440). Claim 9 has been again rejected under 35 U.S.C. §103(c) further in view of Karger et al. (US 5,348,633). In response, Applicants respectfully submit that in view of the above amendments, these rejections are now moot.

Claims 1–14 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite and confusing. The Examiner states that this is because the claims set forth steps involved in a “binding assay”, but recite wherein the assay is “an expression assay”. In response, Applicants submit that in view of the amendments, the rejection is now moot.

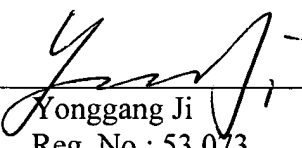
In view of the foregoing, Applicants respectfully assert that the Examiner’s rejections cannot be sustained and should be withdrawn.

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Applicants believe that the claims, as amended, are in allowable form and earnestly solicit the allowance of claims 1-9 and 11.

Respectfully submitted,

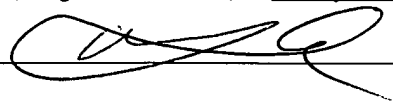
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on January 31, 2006.

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